

# House File 2045 - Introduced

HOUSE FILE 2045

BY WINDSCHITL

## A BILL FOR

1 An Act mandating drug testing of applicants for and certain  
2 recipients of assistance under the family investment  
3 program.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1.   NEW SECTION.   239B.2C   Drug testing for  
2 applicants.

3     1.   For the purposes of this section, unless the context  
4 otherwise requires:

5       *a.   "Confirmed positive test result"* means the results of  
6 a urine, oral fluid, or blood test in which the level of  
7 controlled substances or their metabolites in the sample  
8 analyzed meets or exceeds nationally accepted standards for  
9 determining detectable levels of controlled substances as  
10 adopted by the federal substance abuse and mental health  
11 services administration. If nationally accepted standards for  
12 oral fluid tests have not been adopted by the federal substance  
13 abuse and mental health services administration, the standards  
14 for determining detectable levels of controlled substances for  
15 purposes of determining a confirmed positive test result shall  
16 be the same standard that has been established by the federal  
17 food and drug administration for the measuring instrument used  
18 to perform the oral fluid test.

19       *b.   "Licensed substance abuse treatment program"* means an  
20 inpatient or outpatient substance abuse treatment program  
21 licensed by the department of public health under chapter 125.

22       *c.   "Sample"* means a sample from the human body capable of  
23 revealing the presence of drugs, or their metabolites, which  
24 shall include only urine, saliva, or blood.

25     2.   *a.*   The drug testing requirements of this section apply  
26 to the following applicants for and recipients of assistance  
27 under this chapter:

28       (1)   Each adult parent, guardian, or specified relative who  
29 is included in the applicant family, including both parents of  
30 a two-parent family, or an individual who may be exempt from  
31 work activity requirements due to the age of the youngest child  
32 or who may be exempt from work activity requirements under the  
33 PROMISE JOBS program.

34       (2)   A minor parent who is not required to live with a  
35 parent, guardian, or other adult caretaker in accordance with

1 this chapter.

2 (3) A recipient of assistance who provided a written  
3 acknowledgment of the drug testing requirements of this  
4 section at the time of application for assistance and for whom  
5 there is information indicating a significant likelihood the  
6 recipient is using a controlled substance, as determined by the  
7 department, shall be subject to random drug testing.

8 b. Dependent children under the age of eighteen years are  
9 exempt from the drug testing requirements of this section.

10 c. The department shall require a drug test that is similar  
11 to a drug test as a condition of employment under section 730.5  
12 to screen the persons subject to this section for the presence  
13 of controlled substances. The person is responsible for the  
14 cost of the person's drug test.

15 3. a. A person who is subject to this section is ineligible  
16 to receive assistance under this chapter if the person does not  
17 participate in the required drug testing.

18 b. A person who is subject to this section is ineligible  
19 to receive assistance under this chapter if the person has a  
20 confirmed positive test result for the presence of either of  
21 the following:

22 (1) A substance listed in schedule I under section 124.204.

23 (2) A substance listed in schedule II, III, or IV under  
24 chapter 124 that was not prescribed for the person.

25 c. The period of ineligibility for an applicant or recipient  
26 who is ineligible for assistance under paragraph "b" is one year  
27 after the date of the confirmed positive test result.

28 4. The department shall do all of the following in  
29 implementing this section:

30 a. (1) Provide notice of drug testing to each person who is  
31 subject to this section at the time of application. The notice  
32 must advise the person that drug testing will be conducted as a  
33 condition for receiving assistance under this chapter and that  
34 the person must bear the cost of testing. The applicant shall  
35 be advised that the required drug testing may be avoided if the

1 applicant does not complete or withdraws the application for  
2 assistance.

3     (2) Advise each person to be tested, before the test  
4 is conducted, that the person may, but is not required to,  
5 advise the agent administering the test of any prescription or  
6 over-the-counter medication the person is taking.

7     (3) Require each person to be tested to sign a written  
8 acknowledgment that the person has received and understood the  
9 notice and advice provided under this paragraph "a".

10    *b.* Assure each person being tested a reasonable degree  
11 of dignity while producing and submitting a sample for drug  
12 testing, consistent with the department's need to ensure the  
13 reliability of the sample.

14    *c.* Specify circumstances under which a person with a  
15 confirmed positive test result has the right to take one or  
16 more additional tests.

17    *d.* Inform a person who has a confirmed positive test result  
18 and is deemed ineligible for assistance that the person may  
19 not reapply for assistance until one year after the date of  
20 the confirmed positive test result unless the person meets the  
21 requirements of paragraph "f". If the person has a subsequent  
22 confirmed positive test result, the person shall be ineligible  
23 to receive assistance for three years after the date of the  
24 subsequent result unless the person meets the requirements of  
25 paragraph "f".

26    *e.* Provide any person with a confirmed positive test result  
27 with a list of licensed substance abuse treatment programs  
28 available in the area in which the person resides. Neither the  
29 department nor the state is responsible for providing or paying  
30 for substance abuse treatment as part of the drug testing  
31 conducted under this section.

32    *f.* A person with a confirmed positive test result who is  
33 denied assistance under this chapter may reapply for assistance  
34 after six months if the person can document the successful  
35 completion of a licensed substance abuse treatment program.

1 A person who has met the requirements of this paragraph and  
2 reapplies for assistance must also pass the initial drug test  
3 required under subsection 2. Any drug test conducted while the  
4 person is undergoing substance abuse treatment must meet the  
5 requirements for a drug test under subsection 2. The cost of  
6 any drug testing or substance abuse treatment provided under  
7 this subsection shall be the responsibility of the person being  
8 tested or receiving treatment. A person with a confirmed  
9 positive test result from the drug test required under  
10 subsection 2 may reapply for assistance under this paragraph  
11 only once.

12 5. If an applicant or recipient parent is deemed ineligible  
13 for assistance as a result of having a confirmed positive test  
14 result from a drug test conducted under this section, all of  
15 the following apply:

16 a. The eligibility of the applicant's or recipient's  
17 dependent child for assistance is not affected.

18 b. An appropriate protective payee shall be designated  
19 to receive assistance on behalf of the dependent child.  
20 The parent may choose to designate an individual as the  
21 protective payee. The individual designated by the parent as  
22 the protective payee must be a specified relative or other  
23 immediate family member unless such family member is not  
24 available or the family member declines the designation. In  
25 which case another individual, approved by the department,  
26 shall be designated as the protective payee. The individual  
27 must also undergo drug testing before being approved to be  
28 the protective payee. If the designated individual has a  
29 confirmed positive test result, the designated individual shall  
30 be ineligible to be the protective payee.

31 6. The department shall adopt rules to implement this  
32 section.

33 EXPLANATION

34 This bill requires drug testing of applicants for and  
35 certain recipients of assistance under the family investment

1 program (FIP) in new Code section 239B.2C. The program  
2 provides cash assistance and employment-related services to  
3 low-income families with children under the federal temporary  
4 assistance for needy families (TANF) block grant. The  
5 department of human services administers the program and block  
6 grant for this state.

7 The bill utilizes the following terms that are defined in  
8 Code section 239B.1:

9 "Applicant" means a person who files an application for  
10 participation in FIP under Code chapter 239B.

11 "Assistance" means a FIP payment.

12 "Family" means a family unit that includes at least one  
13 child and at least one parent or other specified relative of  
14 the child.

15 "Minor parent" means an applicant or participant parent who  
16 is less than 18 years of age and has never been married.

17 "PROMISE JOBS program" or "JOBS program" means the promoting  
18 independence and self-sufficiency through employment job  
19 opportunities and basic skills program, a part of FIP.

20 "Specified relative" means a person who is, or was at any  
21 time, a relative of an applicant or participant child, by means  
22 of blood relationship, marriage, or adoption, or is a spouse of  
23 a relative listed in the definition.

24 The bill defines "confirmed positive test result", "licensed  
25 substance abuse treatment program", and "sample".

26 The drug testing requirement applies to each applicant for  
27 FIP assistance who is an adult parent, guardian, or specified  
28 relative who is included in the applicant family, including  
29 both parents of a two-parent family, or an individual who may  
30 be exempt from work activity requirements due to the age of the  
31 youngest child or who may be exempt from work activity under  
32 the PROMISE JOBS program. The requirement also applies to  
33 each minor parent applicant who is not required to live with  
34 a parent, guardian, or other adult caretaker. In addition,  
35 a recipient of assistance who accepted the drug testing

1 requirements at the time of application and for whom there is  
2 information indicating a significant likelihood the recipient  
3 is using a controlled substance is subject to random drug  
4 testing. Dependent children under the age of 18 years are  
5 exempt from the drug testing requirements. The department is  
6 directed to require a drug test of each person who is subject  
7 to the requirements to screen for the presence of controlled  
8 substances. The person is responsible for the cost of the drug  
9 test.

10 A person subject to the requirement who does not participate  
11 in the required drug testing is ineligible for cash assistance  
12 through FIP. A person who has a confirmed positive test result  
13 is ineligible for one year unless the test result was for a  
14 controlled substance for which the person has a prescription.

15 The department is required to do all of the following  
16 in administering the drug testing requirement: implement  
17 notification provisions; allow for additional testing following  
18 a confirmed positive test result; apply a three-year period  
19 of ineligibility if a person reapplies but has a subsequent  
20 confirmed positive test result; provide a listing of licensed  
21 substance abuse treatment programs available in the area of a  
22 person's residence if the person has a confirmed positive test  
23 result; and allow for a person who has a confirmed positive  
24 test result to reapply one time after six months if the person  
25 provides documentation of completing a licensed substance abuse  
26 treatment program within six months of the confirmed positive  
27 test result and passes another drug test.

28 If a parent is deemed ineligible for assistance as a result  
29 of having a confirmed positive test result, the dependent child  
30 remains eligible for assistance and a protective payee is to be  
31 designated by the parent to receive the assistance on behalf of  
32 the child. If a specified relative or other immediate family  
33 member declines to be designated, the department must designate  
34 the protective payee. The protective payee is then subject  
35 to drug testing before being approved to receive assistance

1 on behalf of the child. A protective payee with a confirmed  
2 positive test result is ineligible to receive assistance on  
3 behalf of the child.

4 The department is required to adopt rules to implement the  
5 new requirements.